

TASMANIA

**JUSTICE LEGISLATION AMENDMENTS
(CRIMINAL RESPONSIBILITY) BILL 2020**

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JUSTICE LEGISLATION AMENDMENTS (CRIMINAL RESPONSIBILITY) BILL 2020

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
19 March 2020

*(Brought in by the Minister for Justice, the Honourable Elise
Nicole Archer)*

A BILL FOR

**An Act to amend the *Criminal Code Act 1924* and the
*Sentencing Act 1997***

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Justice Legislation Amendments (Criminal Responsibility) Act 2020*.

2. Commencement

This Act commences on a day to be proclaimed.

*Justice Legislation Amendments (Criminal Responsibility) Act
2020
Act No. of 2020*

s. 3

Part 2 – Criminal Code Act 1924 Amended

PART 2 – CRIMINAL CODE ACT 1924 AMENDED

3. Principal Act

In this Part, the *Criminal Code Act 1924** is referred to as the Principal Act.

4. Schedule 1 amended (*Criminal Code*)

Schedule 1 to the Principal Act is amended as follows:

- (a) by omitting from section 13(1) “an event which occurs by chance.” and substituting “an event –”;
- (b) by inserting the following paragraphs after subsection (1) in section 13:
 - (a) that the person does not intend or foresee as a possible consequence; and
 - (b) that an ordinary person would not reasonably foresee as a possible consequence.
- (c) by inserting the following subsection after subsection (1) in section 13:
 - (1A) However, under subsection (1)(b), a person is not excused from criminal responsibility for

*No. 69 of 1924

*Justice Legislation Amendments (Criminal Responsibility) Act
2020
Act No. of 2020*

Part 2 – Criminal Code Act 1924 Amended

s. 4

death, or grievous bodily harm,
that results to a victim because of
a defect, weakness, or
abnormality, of the victim.

- (d) by inserting the following section after section 463:

464. Application of *Justice Legislation Amendments (Criminal Responsibility) Act 2020*

- (1) In this section –

amending Act means the
*Justice Legislation
Amendments (Criminal
Responsibility) Act 2020*;

commencement day means the
day on which the
amending Act
commences.

- (2) The amendment, to section 13(1) of this Act, made by section 4 of the amending Act is not intended to alter the effect of section 13(1) as in force immediately before the commencement day.
- (3) The amendment, to section 13(1) of this Act, made by section 4 of the amending Act does not apply in relation to an offence

*Justice Legislation Amendments (Criminal Responsibility) Act
2020
Act No. of 2020*

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Part 2 – Criminal Code Act 1924 Amended

committed before the
commencement day.

- (4) Subsection (1A) of section 13, as that subsection is inserted by section 4 of the amending Act, does not apply in relation to an offence committed before the commencement day.

*Justice Legislation Amendments (Criminal Responsibility) Act
2020
Act No. of 2020*

Part 3 – Sentencing Act 1997 Amended

s. 5

PART 3 – SENTENCING ACT 1997 AMENDED

5. Principal Act

In this Part, the *Sentencing Act 1997** is referred to as the Principal Act.

6. Section 11C inserted

After section 11B of the Principal Act, the following section is inserted in Part 2:

11C. Self-induced intoxication not to be mitigating factor in sentencing

- (1) In determining the appropriate sentence for an offence, the self-induced intoxication of the offender at the time the offence was committed is not to be taken into account as a mitigating factor.
- (2) Subsection (1) has effect despite any Act or rule of law to the contrary.
- (3) In this section –

drug includes –

 - (a) a controlled substance within the meaning of the *Misuse of Drugs Act 2001*; and

*No. 59 of 1997

*Justice Legislation Amendments (Criminal Responsibility) Act
2020
Act No. of 2020*

s. 6

Part 3 – Sentencing Act 1997 Amended

- (b) a poison, drug of dependence or restricted substance, each within the meaning of the *Poisons Act 1971*;

intoxication means intoxication because of the influence of alcohol, a drug or any other substance;

self-induced intoxication, in relation to a person, means any intoxication of the person except intoxication that –

- (a) is involuntary; or
- (b) results from fraud, sudden or extreme emergency, accident, reasonable mistake, duress or force; or
- (c) results from the administration of a drug –
 - (i) for which a prescription from a person authorised under an Act to prescribe the drug is required; and

*Justice Legislation Amendments (Criminal Responsibility) Act
2020
Act No. of 2020*

Part 3 – Sentencing Act 1997 Amended

s. 6

- (ii) which is administered for the purpose, and in accordance with the dosage level, recommended by the person prescribing the drug or in the instructions, in relation to the drug, of the manufacturer of the drug; or
- (d) results from the administration of a drug –
 - (i) for which no prescription is required; and
 - (ii) which is administered for the purpose, and in accordance with the dosage level, recommended in the instructions, in relation to the drug, of the manufacturer of the drug.

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2020
Act No. of 2020*

s. 7

Part 3 – Sentencing Act 1997 Amended

7. Section 104AC inserted

After section 104AB of the Principal Act, the following section is inserted in Part 12:

104AC. Transitional provision in relation to *Justice Legislation Amendments (Criminal Responsibility) Act 2020*

Section 11C, as inserted by the *Justice Legislation Amendments (Criminal Responsibility) Act 2020*, does not apply in relation to an offence committed before the day on which the section commences.

*Justice Legislation Amendments (Criminal Responsibility) Act
2020
Act No. of 2020*

Part 4 – Concluding Provision

s. 8

PART 4 – CONCLUDING PROVISION

8. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commenced.